

BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: May 19, 2004

Division: Public Safety

Bulk Item: Yes X No

Department: Emergency Management

AGENDA ITEM WORDING:

Ratification of the signing of an Award Letter by the Mayor accepting additional Federal funds in the amount of \$29,727.00 as a modification of the Base Grant Agreement # 04BG-04-11-54-01-044 between Monroe County, Florida and the Florida Department of Community Affairs (DCA).

ITEM BACKGROUND:

Funds are appropriated annually from the Florida Emergency Management, Preparedness, and Assistance Trust Fund and allocated to local emergency management agencies and programs. This Award Letter increases our County's total amount of funding under the Base Grant Agreement to \$132,686.00.

The turnaround time in which the Award Letter had to be processed, signed and returned to DCA was limited, thus necessitating the Mayor to sign in acceptance of it in advance of the next regularly scheduled BOCC meeting.

PREVIOUS RELEVANT BOCC ACTION:

BOCC approved Base Grant Agreement # 04BG-04-11-54-01-044 on September 17, 2003.

CONTRACT/AGREEMENT CHANGES:

Increases the total amount of funding under this Agreement by \$29,727.00.

STAFF RECOMMENDATIONS:

Approval

TOTAL COST: n/a

BUDGETED: Yes No

COST TO COUNTY: n/a

SOURCE OF FUNDS:

REVENUE PRODUCING: Yes X No

AMOUNT PER YEAR: \$29,727.00

APPROVED BY: County Atty Yes OMB/Purchasing Yes Risk Management Yes

DIVISION DIRECTOR APPROVAL:


James R. "Reggie" Paros

4/30/2004

DOCUMENTATION: Included X To Follow Not Required

DISPOSITION:

AGENDA ITEM # D3

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with:	<u>Florida DCA DEM</u>	Contract #	<u>04BG-04-11-54-01-044</u>
		Effective Date:	<u>04-21-04</u>
		Expiration Date:	<u>09-30-04</u>

Contract Purpose/Description:
Funds intended to enhance Monroe County's Emergency Management Program

Contract Manager:	<u>Irene Toner</u>	<u>6065</u>	<u>Emergency Mangement #14</u>
	(Name)	(Ext.)	(Department/Stop #)

for BOCC meeting on 4/21/14 Agenda Deadline: 4/6/04

CONTRACT COSTS

Total Dollar Value of Contract: \$		<u>29,727.00</u>	Current Year Portion: \$	<u>29,727.00</u>
Budgeted? Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Account Codes: _____
Grant: \$	<u>29,727.00</u>			_____
County Match: \$	<u>-0-</u>			_____

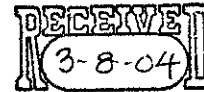
ADDITIONAL COSTS

Estimated Ongoing Costs: \$-0-/yr For: _____
(Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	4/13/04	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	[Signature]	4/28/04
Risk Management	3/15/04	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Bill Gunka	3/17/04
O.M.B./Purchasing	03/29/04	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Andrew Spauld	4/7/04
County Attorney	3/24/4	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Ed [Signature]	3-25-04
Comments:				

OMB Form Revised 2/27/01 MCP #2



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
"Dedicated to making Florida a better place to call home"

JEB BUSH
Governor

Heidi Hughes
Interim Secretary

March 3, 2004

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. William A. Wagner, Jr., Director
Monroe County Emergency Management
490 - 63rd Street, Ocean, Suite 150
Marathon, Florida 33050

RE: AWARD LETTER
Agreement # 04BG-04-11-54-01-044

Dear Mr. Wagner:

In accordance with Section IV, Modification of Contract, this Award Letter serves as a legal modification to your Base Grant Agreement. This Award Letter provides FEDERAL funds to your County in the amount of **\$29,727**.

These federal funds continue to require a dollar for dollar non-federal match. Please ensure that your County can provide the required additional match before accepting these funds.

This Award Letter increases your County's total amount of funding under this Agreement to **\$132,686**. You must return the attached budget form (Attachment A-1) showing the anticipated expenditure of the Federal funds. All other terms and conditions of the Agreement shall remain in full force and effect. **Please make this a part of your Agreement file.**

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100

Phone: (850) 488.8466/Suncom 278.8466 FAX: (850) 921.0781/Suncom 291.0781

Internet address: <http://www.dca.state.fl.us>

CRITICAL STATE CONCERN FIELD OFFICE
2796 Overseas Highway, Suite 212
Marathon, FL 33050-2227
(305) 289-2402

COMMUNITY PLANNING
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-2356

EMERGENCY MANAGEMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 413-9969

HOUSING & COMMUNITY DEVELOPMENT
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
(850) 488-7956


Mr. William A. Wagner, Jr., Director
Page Two
March 3, 2004

Should the County not wish to accept these additional funds, then the County must provide notice to the Department within (30) days of receipt of this Award Letter. Otherwise, **the county shall provide to the Department its written notice of acceptance within forty-five (45) days of receipt of the Award Letter.** The terms of this Agreement shall be considered to have been modified to include the additional funds upon receipt of the written notice of acceptance. This is in accordance with Section IV, Modification of Contract.

Rule 9G-19.006(4), Florida Administrative Code provides for the reallocation of any unspent (State EMPA) Base Grant funds. All but a very small portion of funds were utilized by the counties in Fiscal Year 2002-03; therefore, in accordance with the Rule, a reallocation of funds for Fiscal Year 2003-04 can not be made.

You may indicate your acceptance of these funds by signing and returning a copy of this Award letter and the attached budget page to Ms. Dee Giles, Department of Community Affairs, Division of Emergency Management, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

Respectfully,


W. Craig Fugate, Director
Division of Emergency Management

WCF/dgs

Attachment

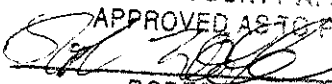
I accept the additional funds and agree to all terms and conditions as set forth in the Base Grant Agreement.

County: Monroe

Authorized Official: Murray & Nelson

Title: Mayor

Date: April 28, 2004

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

ROBERT N. WOLFE
CHIEF ASSISTANT COUNTY ATTORNEY
Date 3-28-04

Attachment A-1

Budget

The anticipated expenditures for the Categories listed below are for the Emergency Management Performance (EMPG) Federal portion of this subgrant only (Paragraph (16)(a), FUNDING/CONSIDERATION).

<u>Category</u>	<u>Anticipated Expenditures Amount</u>
Salaries/Fringe Benefits	\$ _____
Other Personal Services	\$ _____
Expenses	\$ <u>15,000.00</u>
Operating Capital Outlay	\$ <u>14,727.00</u>
Fixed Capital Outlay	\$ _____
Total Federal Funds	\$ <u>29,727.00</u>

Agreement Number: 04BG-04-11-54-01-044

CSFA Number: 52008

CFDA Number: 83.552

STATE AND FEDERALLY FUNDED SUBGRANT AGREEMENT

THIS AGREEMENT is entered into by and between the State of Florida, Department of Community Affairs, with headquarters in Tallahassee, Florida (hereinafter referred to as the "Department"), and MONROE COUNTY, (hereinafter referred to as the "Recipient").

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING FACTS:

A. WHEREAS, the Recipient represents that it is fully qualified and eligible to receive these grant funds to provide the services identified herein and agrees to comply with all the requirements of this Agreement and Rule Chapter 9G-19, Florida Administrative Code; and

B. WHEREAS, the Department receives these grant funds from the State of Florida and the federal government, and has the authority to subgrant these funds to the Recipient upon the terms and conditions hereinafter set forth; and

C. WHEREAS, the Department is authorized, pursuant to Section 252.373, Florida Statutes, and Rule Chapter 9G-19, Florida Administrative Code, to disburse funds for emergency management grants to recipients.

NOW, THEREFORE, the Department and the Recipient do mutually agree as follows:

(1) BUDGET AND SCOPE OF WORK

The Recipient shall fully perform the obligations in accordance with the Budget, Attachment A, and Scope of Work, Attachment B and B-1, of this Agreement.

(2) INCORPORATION OF LAWS, RULES, REGULATIONS AND POLICIES

Both the Recipient and the Department shall be governed by applicable State and Federal laws, rules and regulations, including but not limited to those identified in Attachment C.

(3) PERIOD OF AGREEMENT

This Agreement shall begin October 1, 2003 and shall end September 30, 2004, unless terminated earlier in accordance with the provisions of Paragraph (9) of this Agreement. All requests for reimbursement must be submitted within 30 days after the termination date of the Agreement. Any requests received after November 1, 2004, may, in the discretion of the Department, not be reimbursed from this Agreement. Reimbursement requests shall not be submitted by facsimile transmission.

AGREEMENT

(4) MODIFICATION OF CONTRACT; REPAYMENTS

Either party may request modification of the provisions of this Agreement. Changes which are mutually agreed upon shall be effective only when reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Agreement. No change to the terms and conditions of this Agreement, including the Scope of Work, shall be effective until filed and approved in accordance with the provisions in Attachment B.

Changes to the amount of funding to be provided may be accomplished by notice from the Department to the Recipient, in the form of certified mail, return receipt requested. The Department may make an award of additional funds by subsequent Award Letter certified mail, return receipt requested, to the Recipient's contact identified in Paragraph (10), below. Should the Recipient determine it does not wish to accept the award of additional funds, then the Recipient shall provide notice to the Department contact within thirty (30) days of receipt of the Award Letter. Otherwise, the Recipient shall provide to the Department its written notice of acceptance within forty-five (45) days of receipt of the Award Letter. The terms of this Agreement shall be considered to have been modified to include the additional funds upon the Department's receipt of the written notice of acceptance and receipt of a budget form which details the proposed expenditure of the additional funds. The budget form will be provided by the Department when the offer of additional funds is made.

Notwithstanding the foregoing, any budget changes which do not increase the overall cost of the project or change the Scope of Work do not require a written modification to this Agreement.

All refunds or repayments to be made to the Department under this Agreement are to be made payable to the order of "Department of Community Affairs", and mailed directly to the Department at the following address:

Department of Community Affairs
Cashier
Finance and Accounting
2555 Shumard Oak Boulevard
Tallahassee FL 32399-2100

In accordance with § 215.34(2), Florida Statutes, if a check or other draft is returned to the Department for collection, the Department must add to the amount of the check or draft a service fee of Fifteen Dollars (\$15.00) or Five Percent (5%) of the face amount of the check or draft, whichever is greater.

(5) RECORDKEEPING

(a) As applicable, Recipient's performance under this Agreement shall be subject to the federal "Common Rule: Uniform Administrative Requirements for State and Local Governments" (53 Federal Register 8034) or OMB Circular No. A-110, "Grants and Agreements with Institutions of High Education, Hospitals, and Other Nonprofit Organizations," and either OMB Circular No. A-87, "Cost Principles for State and Local Governments," OMB Circular No. A-21, "Cost Principles for Educational Institutions," or OMB Circular No. A-122, "Cost Principles for Nonprofit Organizations." If this Agreement is made with a commercial (for-profit) organization on a cost-reimbursement basis, the Recipient shall be subject to Federal Acquisition Regulations 31.2 and 931.2.

(b) The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued, and shall allow the Department or its designee, Comptroller, or Auditor General access to such records upon request. The Recipient shall ensure that audit working papers are made available to the Department or its designee, Comptroller, or Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department, with the following exceptions:

1. If any litigation, claim or audit is started before the expiration of the five year period and extends beyond the five year period, the records will be maintained until all litigation, claims or audit findings involving the records have been resolved.

2. Records for the disposition of non-expendable personal property valued at \$5,000 or more at the time of acquisition shall be retained for five years after final disposition.

3. Records relating to real property acquisition shall be retained for five years after closing of title.

(c) All records, including supporting documentation of all program costs, shall be sufficient to determine compliance with the requirements and objectives of the Budget, Attachment A and Scope of Work, Attachment B and B-1, and all other applicable laws and regulations.

(d) The Recipient, its employees or agents, including all subcontractors or consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to the Department, its employees, and agents. "Reasonable" shall be construed according to the circumstances but ordinarily shall mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, on Monday through Friday. "Agents" shall include, but not be limited to, auditors retained by the Department.

(6) REPORTS

(a) At a minimum, the Recipient shall provide the Department with quarterly reports, and with a close-out report.

(b) Quarterly reports are due to be received by the Department no later than 30 days after the end of each quarter of the program year and shall continue to be submitted each quarter until submission of the administrative close-out report. The ending dates for each quarter of the program year are December 31, March 31, June 30 and September 30.

(c) The close-out report is due 45 days after termination of this Agreement.

(d) If all required reports and copies, prescribed above, are not sent to the Department or are not completed in a manner acceptable to the Department, the Department may withhold further payments until they are completed or may take such other action as set forth in paragraph (9). The Department may terminate the Agreement with a Recipient if reports are not received within 30 days after written notice by the Department. "Acceptable to the Department" means that the work product was completed in accordance with generally accepted principles and is consistent with the Budget and Scope of Work.

(e) Upon reasonable notice, the Recipient shall provide such additional program updates or information as may be required by the Department.

(f) The Recipient shall provide additional reports and information as identified in Attachment D.

(7) MONITORING

The Recipient shall constantly monitor its performance under this Agreement to ensure that time schedules are being met, the Budget and Scope of Work are being accomplished within specified time periods, and other performance goals are being achieved. Such review shall be made for each function or activity set forth in Attachment B and B-1 to this Agreement. In addition, the Department will monitor the performance and financial management by the Recipient throughout the contract term to ensure timely completion of all tasks.

In addition to reviews of audits conducted in accordance with OMB Circular A-133, as revised (see "AUDIT REQUIREMENTS" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the Recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department. In the event that the Department determines that a limited scope audit of the Recipient is appropriate, the Recipient agrees to comply with any additional instructions provided by the Department to the Recipient regarding such audit. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Comptroller or Auditor General. In addition, the Department will monitor the performance and financial management by the Contractor throughout the contract term to ensure timely completion of all tasks.

(8) LIABILITY

(a) Unless Recipient is a State agency or subdivision, the Recipient shall be solely responsible to parties with whom it shall deal in carrying out the terms of this agreement, and shall save the Department harmless against all claims of whatever nature by third parties arising out of the performance of work under this agreement. For purposes of this agreement, Recipient agrees that it is not an employee or agent of the Department, but is an independent contractor.

(b) Any Recipient who is a state agency or subdivision, as defined in Section 768.28, Florida Statutes, agrees to be fully responsible to the extent provided by Section 768.28 Florida Statutes, for its negligent acts or omissions or tortious acts which result in claims or suits against the Department, and agrees to be liable for any damages proximately caused by said acts or omissions. Nothing herein is intended to serve as a waiver of sovereign immunity by any Recipient to which sovereign immunity applies. Nothing herein shall be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of any contract.

(9) DEFAULT; REMEDIES; TERMINATION

(a) If the necessary funds are not available to fund this Agreement as a result of action by Congress, the state Legislature, the Office of the Comptroller or the Office of Management and Budgeting, or if any of the following events occur ("Events of Default"), all obligations on the part of the Department to make any further payment of funds hereunder shall, if the Department so elects, terminate and the Department may, at its option, exercise any of its remedies set forth herein, but the Department may make any payments or parts of payments after the happening of any Events of Default without thereby waiving the right to exercise such remedies, and without becoming liable to make any further payment:

1. If any warranty or representation made by the Recipient in this Agreement or any previous Agreement with the Department shall at any time be false or misleading in any respect, or if the Recipient shall fail to keep, observe or perform any of the terms or covenants contained in this Agreement or any previous agreement with the Department and has not cured such in timely fashion, or is unable or unwilling to meet its obligations thereunder;

2. If any material adverse change shall occur in the financial condition of the Recipient at any time during the term of this Agreement from the financial condition revealed in any reports filed or to be filed with the Department, and the Recipient fails to cure said material adverse change within thirty (30) days from the time the date written notice is sent by the Department.

3. If any reports required by this Agreement have not been submitted to the Department or have been submitted with incorrect, incomplete or insufficient information;

4. If the Recipient has failed to perform and complete in timely fashion any of the services required under the Budget, Attachment A, and Scope of Work, Attachments B and B-1 attached hereto.

(b) Upon the happening of an Event of Default, then the Department may, at its option, upon thirty (30) calendar days prior written notice to the Recipient and upon the Recipient's failure to timely cure, exercise any one or more of the following remedies, either concurrently or consecutively, and the pursuit of any one of the following remedies shall not preclude the Department from pursuing any other remedies contained herein or otherwise provided at law or in equity:

1. Terminate this Agreement, provided that the Recipient is given at least thirty (30) days prior written notice of such termination. The notice shall be effective when placed in the United States mail, first class mail, postage prepaid, by registered or certified mail-return receipt requested, to the address set forth in Paragraph (10) herein;

2. Commence an appropriate legal or equitable action to enforce performance of this Agreement;

3. Withhold or suspend payment of all or any part of a request for payment;

4. Exercise any corrective or remedial actions, to include but not be limited to, requesting additional information from the Recipient to determine the reasons for or the extent of non-compliance or lack of performance, issuing a written warning to advise that more serious measures may be taken if the situation is not corrected, advising the Recipient to suspend, discontinue or refrain from incurring costs

for any activities in question or requiring the Recipient to reimburse the Department for the amount of costs incurred for any items determined to be ineligible;

5. Exercise any other rights or remedies which may be otherwise available under law;

(c) The Department may terminate this Agreement for cause upon such written notice as is reasonable under the circumstances. Cause shall include, but not be limited to, misuse of funds; fraud; lack of compliance with applicable rules, laws and regulations; failure to perform in a timely manner; and refusal by the Recipient to permit public access to any document, paper, letter, or other material subject to disclosure under Chapter 119, Florida Statutes, as amended.

(d) Suspension or termination constitutes final agency action under Chapter 120, Florida Statutes, as amended. Notification of suspension or termination shall include notice of administrative hearing rights and time frames.

(e) In addition to any other remedies, the Recipient shall return to the Department any funds which were used for ineligible purposes under the program laws, rules, and regulations governing the use of the funds under the program.

(f) This Agreement may be terminated by the written mutual consent of the parties.

(g) Notwithstanding the above, the Recipient shall not be relieved of liability to the Department by virtue of any breach of Agreement by the Recipient. The Department may, to the extent authorized by law, withhold any payments to the Recipient for purpose of set-off until such time as the exact amount of damages due the Department from the Recipient is determined.

(10) NOTICE AND CONTACT

(a) All notices provided under or pursuant to this Agreement shall be in writing, either by hand delivery, or first class, certified mail, return receipt requested, to the representative identified below at the address set forth below and said notification attached to the original of this Agreement.

(b) The name and address of the Department contract manager for this Agreement is:

Ms. Debbie Wonsch, Manager
Emergency Management Preparedness and
Assistance Base Grant Program
Department of Community Affairs
Division of Emergency Management
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100
Telephone: (850) 413-9894
Fax: (850) 488-7842
Email: debbie.wonsch@dca.state.fl.us

(c) The name and address of the Representative of the Recipient responsible for the administration of this Agreement is:

IRENE TONER
Monroe County Emergency Management
490 63rd Street Ocean
Suite 150
Marathon FL 33050
Telephone: 305 289 6065
Fax: 305 289 6333
Email: toner-irene@monroecounty-fl.gov

(d) In the event that different representatives or addresses are designated by either party after execution of this Agreement, notice of the name, title and address of the new representative will be rendered as provided in (10)(a) above.

(e) All payments relating to the Agreement shall be mailed to the following address:

Monroe County Emergency Management
490 63rd Street Ocean
Suite 150
Marathon FL 33050

(11) OTHER PROVISIONS

(a) The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by the Recipient in this Agreement, in any subsequent submission or response to Department request, or in any submission or response to fulfill the requirements of this Agreement, and such information, representations, and materials are incorporated by reference. The lack of accuracy thereof or any material changes shall, at the option of the Department and with thirty (30) days written notice to the Recipient, cause the termination of this Agreement and the release of the Department from all its obligations to the Recipient.

(b) This Agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this Agreement shall lie in Leon County. If any provision hereof is in conflict with any applicable statute or rule, or is otherwise unenforceable, then such provision shall be deemed null and void to the extent of such conflict, and shall be deemed severable, but shall not invalidate any other provision of this Agreement.

(c) No waiver by the Department of any right or remedy granted hereunder or failure to insist on strict performance by the Recipient shall affect or extend or act as a waiver of any other right or remedy of the Department hereunder, or affect the subsequent exercise of the same right or remedy by the Department for any further or subsequent default by the Recipient. Any power of approval or disapproval granted to the Department under the terms of this Agreement shall survive the terms and life of this Agreement as a whole.

(d) The Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

(e) The Recipient agrees to comply with the Americans With Disabilities Act (Public Law 101-336, 42 U.S.C. Section 12101 et seq.), if applicable, which prohibits discrimination by public and private entities on the basis of disability in the areas of employment, public accommodations, transportation, State and local government services, and in telecommunications.

(f) A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime or on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of Category Two for a period of 36 months from the date of being placed on the convicted vendor or discriminatory vendor list.

(12) AUDIT REQUIREMENTS

(a) The Recipient agrees to maintain financial procedures and support documents, in accordance with generally accepted accounting principles, to account for the receipt and expenditure of funds under this Agreement.

(b) These records shall be available at all reasonable times for inspection, review, or audit by state personnel and other personnel duly authorized by the Department. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

(c) The Recipient shall also provide the Department with the records, reports or financial statements upon request for the purposes of auditing and monitoring the funds awarded under this Agreement.

(d) If the Recipient is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised, and in the event that the Recipient expends \$300,000 or more in Federal awards in its fiscal year, the Recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. EXHIBIT 1 to this Agreement indicates Federal resources awarded through the Department by this Agreement. In determining the Federal awards expended in its fiscal year, the Recipient shall consider all sources of Federal awards, including Federal resources received from the Department. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the Recipient conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this paragraph.

In connection with the audit requirements addressed in Paragraph 12 (d) above, the Recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

If the Recipient expends less than \$300,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event that the Recipient expends less than \$300,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, the cost of the

audit must be paid from non-Federal resources (i.e., the cost of such audit must be paid from Recipient resources obtained from other than Federal entities).

(e) Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by subparagraph (d) above shall be submitted, when required by Section .320 (d), OMB Circular A-133, as revised, by or on behalf of the Recipient directly to each of the following:

The Department of Community Affairs at each of the following addresses:

Department of Community Affairs
Office of Audit Services
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

and

Department of Community Affairs
Division of Emergency Management
Bureau of Compliance Planning and Support
Finance and Administration Section
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

The Federal Audit Clearinghouse designated in OMB Circular A-133, as revised (the number of copies required by Sections .320(d)(1) and (2), OMB Circular A-133, as revised, should be submitted to the Federal Audit Clearinghouse), at the following address:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133, as revised.

(f) In the event that the Recipient expends a total amount of State awards (i.e., State financial assistance provided to the recipient to carry out a State project) from all state sources equal to or in excess of \$300,000 in any fiscal year of such Recipient, the Recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes.

In determining the State awards expended in its fiscal year, the Recipient shall consider all sources of State awards, including State funds received from the Department, except that State awards received by a nonstate entity for Federal program matching requirements shall be excluded from consideration. The funding for this Agreement was received by the Department as a Grants and Aids appropriation.

1. The annual financial audit report shall include all management letters and the recipient's response to all findings, including corrective actions to be taken.
2. The annual financial audit report shall include a schedule of financial assistance specifically identifying all Agreement and other revenue by sponsoring agency and Agreement number.
3. The complete financial audit report, including all items specified in (12)(d) 1 and 2 above, shall be sent directly to:

Department of Community Affairs
Office of Audit Services
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100
and

State of Florida Auditor General
Attn: Ted J. Sauerbeck
Room 574, Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32302-1450

4. In connection with the audit requirements addressed in (d) above, the Recipient shall ensure that the audit complies with the requirements of Section 215.97, Florida Statutes. This includes submission of a reporting package as defined by Section 215.97, Florida Statutes.
5. If the Recipient expends less than \$300,000 in State awards in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$300,000 in State awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from non-State funds (i.e., the cost of such an audit must be paid from the recipient's funds obtained from other than State entities).

(g) Pursuant to Section .320 (f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in Section .320 (c), OMB Circular A-133, as revised, and any management letter issued by the auditor, to the Department at each of the following addresses:

Department of Community Affairs
Office of Audit Services
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

and

Department of Community Affairs
Division of Emergency Management
Bureau of Compliance Planning and Support
Finance and Administration Section
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

(h) Any reports, management letter, or other information required to be submitted to the Department pursuant to this Agreement shall be submitted timely in accordance with OMB Circular A-133, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

(i) Recipients, when submitting financial reporting packages to the Department for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Recipient in correspondence accompanying the reporting package.

(j) The Recipient shall retain sufficient records demonstrating its compliance with the terms of this agreement for a period of five years from the date the audit report is issued, and shall allow the Department, or its designee, the Comptroller, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department, or its designee, the Comptroller, or Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

(k) In the event the audit shows that the entire funds disbursed hereunder, or any portion thereof, were not spent in accordance with the conditions of this Agreement, the Recipient shall be held liable for reimbursement to the Department of all funds not spent in accordance with these applicable regulations and Agreement provisions within thirty (30) days after the Department has notified the Recipient of such non-compliance.

(l) The Recipient shall retain all financial records, supporting documents, statistical records, and any other documents pertinent to this contract for a period of five years after the date of submission of the final expenditures report. However, if litigation or an audit has been initiated prior to the expiration of the five-year period, the records shall be retained until the litigation or audit findings have been resolved.

(m) The Recipient shall have all audits completed by an independent certified public accountant (IPA) who shall either be a certified public accountant or a public accountant licensed under Chapter 473, Florida Statutes. The IPA shall state that the audit complied with the applicable provisions noted above.

(13) SUBCONTRACTS

(a) If the Recipient subcontracts any or all of the work required under this Agreement, a copy of the executed subcontract must be forwarded to the Department within thirty (30) days after execution of the subcontract. The Recipient agrees to include in the subcontract that (1) the subcontractor is bound by all applicable state and federal laws and regulations, and (2)

the subcontractor shall hold the Department and Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement, to the extent allowed and required by law.

(b) The Recipient shall not award subgrants using funds awarded pursuant to this Agreement.

(c) The Recipient shall comply with all applicable procurement rules and regulations in securing goods and services to implement the Scope of Work. Wherever required by law or otherwise permitted, the Recipient shall utilize competitive procurement practices.

(d) Allowable costs shall be determined in accordance with Office of Management and Budget Circular A-87.

(14) TERMS AND CONDITIONS

The Agreement contains all the terms and conditions agreed upon by the parties.

(15) ATTACHMENTS

(a) All attachments to this Agreement are incorporated as if set out fully herein.

(b) In the event of any inconsistencies or conflict between the language of this Agreement and the attachments hereto, the language of such attachments shall be controlling, but only to the extent of such conflict or inconsistency.

(c) This Agreement has the following attachments:

Exhibit 1 - Funding Sources
Attachment A - Budget
Attachment B and B-1 - Scope of Work
Attachment C - Program Statutes and Regulations
Attachment D - Reports
Attachment E - Justification for Advance
Attachment F - Assurances

(16) FUNDING/CONSIDERATION

(a) This is a cost-reimbursement Agreement. The Recipient shall be reimbursed for costs incurred in the satisfactory performance of work hereunder in an amount not to exceed \$102,959 subject to the availability of funds from the Department. The amount of funds available pursuant to this rule chapter may be adjusted proportionally when necessary to meet any matching requirements imposed as a condition of receiving federal disaster relief assistance or planning funds.

Funds received from the Emergency Management Preparedness and Assistance Trust Fund may not be used to supplant existing funds, nor shall funds from one program under the Trust Fund be used to match funds received from another program under the Trust Fund.

(b) Any advance payment under this Agreement is subject to s. 216.181(16), Florida Statutes. The amount which may be advanced may not exceed the expected cash needs of the Recipient within the first three (3) months of the contract term. For a federally funded contract, any advance payment is also subject to federal OMB Circulars A-87, A-110, A-122 and the Cash Management Improvement Act of 1990.

If an advance payment is requested, the budget data on which the request is based and a justification statement shall be included in this Agreement as Attachment E. Attachment E will specify the amount of advance payment needed and provide an explanation of the necessity for and proposed use of these funds.

1. ☒ No advance payment is requested.
2. _____ An advance payment of \$ _____ is requested.

(c) After the initial advance, if any, any further payments shall be made on a quarterly reimbursement basis. Additional reimbursement requests in excess of those made quarterly may be approved by the Department for exceptional circumstances. An explanation of the exceptional circumstances must accompany the request for reimbursement. The Recipient agrees to expend funds in accordance with the Budget, Attachment A, and the Scope of Work, Attachments B and B-1 of this Agreement.

(d) All funds received hereunder shall be placed in an interest-bearing account with a separate account code identifier for tracking all deposits, expenditures and interest earned. Funds disbursed to the Recipient by the Department that are not expended in implementing this program shall be returned to the Department, along with any interest earned on all funds received under this Agreement, within ninety (90) days of the expiration of the award Agreement.

(e) The Recipient shall comply with all applicable procurement rules and regulations in securing goods and services to implement the Scope of Work. Whenever required by law or otherwise permitted, the Recipient shall utilize competitive procurement practices.

(f) Allowable costs shall be determined in accordance with applicable Office of Management and Budget Circulars, or, in the event no circular applies, by 48 CFR Part 31 CONTRACT COST PRINCIPLES AND PROCEDURES.

(g) At a minimum, the Recipient shall continue to provide other funding for the Recipient's Emergency Management Agency at an amount equal to either: (1) the average of the previous three years' level of county general revenue funding of the Recipient's Emergency Management Agency; or (2) the level of funding for the Recipient's Emergency Management Agency for the last fiscal year, whichever figure is lower (Rule 9G-19.011). Recipient's general revenue funding for 911 services, emergency medical services, law enforcement, criminal justice, public works or other services outside the local emergency management agency as defined by Section 252.38, Florida Statutes, shall not be included in determining the "level of county funding of the Recipient's Emergency Management Agency." The Recipient shall certify compliance with this

rule chapter and this rule by its execution of this Agreement, and as a condition precedent to receipt of funding.

Federal funds provided under this Agreement shall be matched by the Recipient dollar for dollar from non-federal funds.

(h) Should the Recipient wish to carry forward into the fiscal year beginning October 1, 2004 any unspent funds awarded under this Agreement, the Recipient must request such carry forward of funds in writing with accompanying documentation detailing the exceptional circumstances requiring the need to the Department by June 30, 2004. At the Division's discretion, an amount not to exceed an amount equal to 25% of the initial amount awarded (\$105,806) may be carried forward under this Agreement. Failure to timely submit information, or failure to submit complete information, may result in the denial of a request to carry funds forward. Any carry forward amounts approved will be added to the Recipient's base Agreement for the following year. Funds may not be carried forward for the purpose of paying salaries and benefits of regular or Other Personal Services personnel. Such salaries and benefits funds may be carried forward to cover contractual or other temporary personnel costs for non-recurring projects only.

(17) STANDARD CONDITIONS

The Recipient agrees to be bound by the following standard conditions:

(a) The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature and receipt of funds from the federal government, and subject to any modification in accordance with Chapter 216, Florida Statutes or the Florida Constitution.

(b) This Agreement may not be renewed or extended.

(c) All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.

(d) If otherwise allowed under this Agreement, all bills for any travel expenses shall be submitted in accordance with Section 112.061, Florida Statutes.

(e) The Department reserves the right to unilaterally cancel this Agreement for refusal by the Recipient to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Recipient in conjunction with this Agreement.

(f) If the Recipient is allowed to temporarily invest any advances of funds under this Agreement, any interest income shall either be returned to the Department or be applied against the Department's obligation to pay the contract amount.

(g) The State of Florida will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) [Section 274A(e) of the Immigration and Nationality Act ("INA")]. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the Recipient of the employment provisions contained in

Section 274A(e) of the INA shall be grounds for unilateral cancellation of this Agreement by the Department.

(18) LOBBYING PROHIBITION

(a) No funds or other resources received from the Department in connection with this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

(b) The Recipient certifies, by its signature to this Agreement, that to the best of his or her knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representative of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(19) COPYRIGHT, PATENT AND TRADEMARK

ANY AND ALL PATENT RIGHTS ACCRUING UNDER OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT ARE HEREBY RESERVED TO THE STATE OF FLORIDA. ANY AND ALL COPYRIGHTS ACCRUING UNDER OR IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT ARE HEREBY TRANSFERRED BY THE RECIPIENT TO THE STATE OF FLORIDA.